

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

RAYMOND PALMER, et al.,	)	CASE NO.: 1:22-cv-01515
	)	
Plaintiff,	)	
	)	
vs.	)	JUDGE: <b>BRIDGET MEEHAN</b>
	)	<b>BRENNAN</b>
	)	
CUYAHOGA COUNTY, OHIO, et al.,	)	<b>REPORT OF PARTIES' PLANNING</b>
	)	<b>MEETING UNDER FED.R.CIV. P.</b>
Defendants.	)	<b>26(F) AND L.R. 16.3(B)</b>
	)	

1. Pursuant to Fed. R. Civ. P. 26(f) and L.R. 16.3(b), a meeting was held on October 24, 2022 and was attended by Counsel for plaintiffs, Scott Perlmutter and Matt Alden, Counsel for Defendants, Brendan Healy and Matthew Convery.
2. The parties will exchange such disclosures by **November 25, 2022**.
3. The parties recommend the following track: **Complex**
4. Pursuant to Local Rule 5.1(c) all documents must be electronically filed absent a showing of good cause.
5. This case is not suitable for ADR at this time but may be after discovery.
6. The parties **do not consent** to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).
7. Recommended Discovery Plan:
  - (a) Describe the subjects, nature and extent of discovery  
Documents and Deposition discovery regarding class certification and claims in complaint and affirmative defense.
  - (b) Non-Expert discovery cut-off date: To be determined ("TBD") after conditional and class certification is resolved.

(c) Plaintiff's expert report due date: TBD after conditional and class certification is resolved.

(d) Defendant's expert report due date: TBD after conditional and class certification is resolved.

(e) Expert discovery cut-off date: TBD after conditional and class certification is resolved.

8. Recommended cut-off date for amending the pleadings and/or adding additional parties: TBD after conditional and class certification is resolved.

9. Recommended dispositive motion date: TBD after conditional and class certification is resolved.

10. Recommended date for a Settlement Conference: TBD after conditional and class certification is resolved.

11. Other matters for the attention of the Court:

(a) Defendant filed a Motion for Partial Judgment on the Pleadings. The Parties have entered into a Stipulation mootng that Motion.

(b) Plaintiff will move for conditional FLSA certification on or before November 22, 2022. In response, Defendant intends to move for a stay of the proceedings as to the issue of conditional certification as there is a case pending in the Sixth Circuit Court of Appeals that may change how district courts are required to address conditional certification in FLSA cases. The Sixth Circuit case is *Brooke Clark, et al v. A&L Home Care and Training Center, LLC, et al.*, Sixth Circuit Case No. 22-3101. Defendant notes that at least four cases pending in the Southern District of Ohio have granted stays:

- *Lovendahl v. Kroger Co.*, S.D.Ohio No. 1:21-cv-00350, 2022 U.S. Dist. LEXIS 34124, at \*6 (Feb. 28, 2022);

- *Cordell v. Sugar Creek Packing Co.*, S.D.Ohio No. 2:21-cv-755, 2022 U.S. Dist. LEXIS 146965, at \*12 (Aug. 16, 2022);
- *Schell v. Kroger Co.*, S.D.Ohio No. 1:21-cv-00103, 2022 U.S. Dist. LEXIS 34130, at \*7 (Feb. 28, 2022); and
- *Green v. Cornerstone Servs.*, S.D.Ohio No. 1:20-cv-706, 2022 U.S. Dist. LEXIS 33884, at \*2 (Feb. 26, 2022).

Plaintiff intends to oppose that request for a stay of the FLSA certification process or, at a minimum, reserves the right to request that the case be only partially stayed to permit continued prosecution of Plaintiff's non-FLSA claim.

(c) Should the stay be denied in whole or in part, the parties will begin fact discovery immediately thereafter. Plaintiff will move for Fed. R. Civ. P. 23 class certification within 6 months of the ruling on Defendant's motion to stay. The parties request a status conference to establish additional dates after the ruling on that motion.

Respectfully submitted,

MICHAEL C. O'MALLEY, PROSECUTING  
ATTORNEY OF CUYAHOGA COUNTY, OHIO

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### **Certificate Of Service**

A copy of the foregoing was filed electronically on November 2, 2022. Service of this filing will be sent pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Loc. R. 5.1 by operation of the Court's electronic filing system to all parties indicated on the system's e-mail filing confirmation.

/s/ Matthew L. Alden

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